

UNITED STAT DEPARTMENT OF COMMERCI Patent and Trademark Office

dress: COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR			ATTORNEY DOCKET NO.
09/265,625	03/10/99	MOROZOVA		G	19226/835(52
HM12/0211 MICHAEL L GOLDMAN				EXAMINER	
				DAVIS, Z	
NIXON HARGRAVE DEVANS & DOYLE				ART UNIT	PAPER NUMBER
CLINTON SQUARE P O BOX 1051				4045	
POCHESTER NV 14603				1612	6

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

02/11/00

į:

Application No.

Zinna N. Davis

Applicant(s)

Prasad et al.

Office Action Summary

09/265,625 Examiner

Group Art Unit

1625

Responsive to communication(s) filed on	
☐ This action is FINAL .	
☐ Since this application is in condition for allowance in accordance with the practice under <i>Ex parte Qu</i>	except for formal matters, prosecution as to the merits is closed rayle, 1935 C.D. 11; 453 O.G. 213.
is longer, from the mailing date of this communication	on is set to expire <u>ONE</u> month(s), or thirty days, whicheve n. Failure to respond within the period for response will cause the). Extensions of time may be obtained under the provisions of
Disposition of Claims	
	is/are pending in the application.
Of the above, claim(s)	is/are withdrawn from consideration
☐ Claim(s)	is/are allowed.
☐ Claim(s)	is/are rejected.
☐ Claim(s)	is/are objected to.
	are subject to restriction or election requirement.
Application Papers	
☐ See the attached Notice of Draftsperson's Pate	ent Drawing Review, PTO-948.
☐ The drawing(s) filed on is.	/are objected to by the Examiner.
☐ The proposed drawing correction, filed on	is □approved □disapproved.
\square The specification is objected to by the Examine	ır.
\square The oath or declaration is objected to by the Ex	caminer.
Priority under 35 U.S.C. § 119	
☐ Acknowledgement is made of a claim for foreig	gn priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED	D copies of the priority documents have been
received.	
☐ received in Application No. (Series Code/	
	n from the International Bureau (PCT Rule 17.2(a)).
*Certified copies not received:	
-	stic priority under 33 0.3.6. 3 113(c).
Attachment(s)	
☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449	9 Paner No(s)
☐ Interview Summary, PTO-413	7, 1 dpc/ 110/3/
☐ Notice of Draftsperson's Patent Drawing Review	w, PTO-948
☐ Notice of Informal Patent Application, PTO-152	2
SEE OFFICE AC	CTION ON THE FOLLOWING PAGES

Serial Number: 09/265,625 Page 2

Art Unit: 1625

DETAILED ACTION

1. Pursuant to the restriction requirement set forth in the parent application, Restriction to one of the following inventions is again required under 35 U.S.C. 121:

- I. Claims 170-198, drawn to a method of killing cells or viruses using a photosensitizer.
 - II. Claims 290-298, drawn to the treatment of a particular volume of living tissue.
 - III. Claims 299-310, drawn to the treatment of a cancer in living tissue.
 - IV. Claims 311-325, drawn to a method of treatment of a particular volume of tissue.
- 2. Inventions I-IV are related as only process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the claims are drafted as various method of using.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 4. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.
- 5. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon,

Page 3

Serial Number: 09/265,625

Art Unit: 1625

including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

- 6. A telephone call was made to Mr. Michael Goldman on February 1, 2000. Due to the complexity of the application, a written request will be made.
- 7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna N. Davis whose telephone number is (703) 308-4699.

Zinna Northington Davis
Primary Examiner
Group 1600-AU 1625

znd 2/10/2000